# CONTENTS

## ARTICLES


ASHWORTH, ANDREW, Punishment and Compensation: Victims, Offenders and the State 86
BIRKS, PETER and MCLEOD, GRANT, The Implied Contract Theory of Quasi-Contract: Civilian Opinion Current in the Century before Blackstone 46
LORD DEVLIN, Trial by Jury for Fraud 311
EEKELAAR, JOHN, The Emergence of Children's Rights 161
FENTIMAN, RICHARD, Activity in the Law of Status: Domicile, Marriage and the Law Commission 353
FINLAY, H. A., The Grounds for Divorce: The Australian Experience 368
GLEN, PATRICK, H., The Dilemma of Class Action Reform 262
GOODIN, ROBERT, E., Welfare, Rights and Discretion 232
HILL, JONATHAN, Litigation and Negligence: A Comparative Study 183
HUNT, ALAN, The Theory of Critical Legal Studies 1
LEGRAND JR, PIERRE, Pre-Contractual Disclosure and Information: English and French Law Compared 322
STAPLETON, JANE, Products Liability Reform—Real or Illusory? 392
TRINDADE, F. A., The Intentional Infliction of Purely Mental Distress 219


## REVIEW ARTICLES


BEALE, HUGH, Inequality of Bargaining Power 123
BELL, JOHN, Bennion's *Statutory Interpretation* 288
CRETNEY, STEPHEN, Succession—Discretion or Whim, Freedom of Choice or Caprice? 299
DE MOOR, ANNE, Contract and Agreement in English and French Law 275
EEKELAAR, JOHN, Taking Juvenile Justice Seriously 439
GARDNER, SIMON, Instrumentalism and Necessity 431
IBBETSON, DAVID, Law, Religion and Revolution in the Twelfth Century 137
TWINING, WILLIAM, Cannibalism and Legal Literature 423


## NOTES


AUSTIN, R. P., Commerce and Equity—Fiduciary Duty and Constructive Trust 444
BIRDS, JOHN, Landlords, Tenants and Subrogation 304
GRANT HAMMOND, R., Electronic Crime in Canadian Courts 145
LEE, W. A., Report on the Law of Trusts, Ontario Law Reform Commission, 1984 150
RAFFERTY, NICHOLAS, Limitation and Latent Damage—The Canadian Experience 464
WATTS, PETER, Reservation of Title Clauses in England and New Zealand 456

## LEGISLATION

[Entries in **bold** type are the subject of notes; other entries refer to statutes receiving substantial discussion or criticism elsewhere in this volume.]


UNITED KINGDOM

Children and Young Persons Act 1969
s.1. 171–2
Consumer Credit Act 1974 129
Criminal Justice Act 1982 108
Criminal Justice (Scotland) Act 1980 108
Guardianship of Infants Act 1925 174
Inheritance (Provision for Family and Dependants) Act 1975 299 et seq
Matrimonial and Family Proceedings Act 1984 174
Matrimonial Homes Act 1967 175
Misrepresentation Act 1967 325–6
Powers of Criminal Courts Act 1973 108, 110, 228
Powers of Attorney Act 1971 153
Prosecution of Offenders Act 1985 108
Sale of Goods Act 1979 327 et seq
s.14 (3) 328–9
Unfair Contract Terms Act 1977 134–6

OTHER COUNTRIES

**Canadian Criminal Code (1970)** **146 et seq**
Contracts Act 1915, amended 1976 (Swed) 124
**Copyright Act (1970) (Can)** **146**
Family Law Act 1975 (Aus) 368 et seq
s.48 377 et seq
s.49 387 et seq
Loi sur le recours collectif 1978 (Quebec, Can) 262
Matrimonial Causes Act 1959 (Aus) 373
National Labour Relations Act 1935 (USA) 40–1

CASES

[Entries in **bold** type are the subject of notes; other entries refer to cases receiving substantial discussion or criticism elsewhere in this volume.]


Allcard *v* Skinner (1873) 127–8
Aylesford *v* Morris (1873) 127
Bell *v* Lever Bros (1932) 323
Bera *v* Marr (1985) (Can) 470–1
Beshada *v* Johns-Manville Products Corp (1982) (US) 415
Bielitzki *v* Obadiak (1922) 221 et seq
Bird *v* Holbrook (1828) 219
**Bond *v* Chief Constable of Kent (1983)** 228–9
**Bunyan *v* Jordan (1937) (Aus)** 219 et seq
Caltex Oil (Australia) *v* The Dredge 'Willemstrad', (1976) (Aus) 198
Carretti and Carretti (1977) (Aus) 384, 390
Central Trust Co *v* Rafuse (1983) (Can) 468
**Clough Mill *v* Martin (1985)** 456 et seq
Consumers Glass Co *v* Foundation Co of Canada Ltd (1985) (Can) 470
Costigan *v* Ruzicka (1984) (Can) 468–9
Cresswell *v* Potter (1968) 126
Cook *v* Swinfen (1967) 208
D & C Builders *v* Rees 130
Davjoyda Estates Pty Ltd *v* National Insurance Co of New Zealand (1965) (NZ) 307–8
Demarco *v* Ungaro (1979) 186
Doyle *v* White Stadium (1935) 179
Duchess of Argyle *v* Beuselinck (1972) 200
Eisen *v* Carlisle & Jacquelin (1974) (US) 269
Esso Petroleum *v* Mardon (1979) 189
Evans *v* Llewellin (1787) 126
Falk and Falk (1977) (Aus) 384, 388–89
Fry *v* Lane (1888) 126
Gillick *v* West Norfolk and Wisbech Area Health Authority (1984) 161, 177–82, 442
Greenwood Shopping Plaza *v* Beattie (1980) (Can) 309
Gregory *v* Tarlo (1964) 214, 215
Griffiths *v* Evans (1953) 201
Groom *v* Crocker (1939) 189
Hart *v* O'Connor (1985) 126
Hedley Byrne *v* Heller & Partners (1976) 189, 193, 325 et seq
**Hendy Lennox (Industrial Engines Ltd) *v* Grahame Puttick Ltd (1984)** 457 et seq
Heywood *v* Wellers (1976) 211–12
Hodges and Hodges (1977) (Aus) 389
Hopes *v* Hopes (1949) 386 et seq
**Hospital Products Ltd *v* United States Surgical Corporation (1984) (Aus)** 444 et seq
Howe *v* Dartmouth (1802) 156
Hunt and Hunt (1977) (Aus) 389
IRC *v* Bullock (1976) 361 et seq
Janvier *v* Sweeney (1919) 221 et seq
John Maryon International Ltd *v* New Brunswick Telephone Co (1982) (Can) 466 et seq
Jones *v* Jones (1970) 203n
Kamloops *v* Nielsen (1984) (Can) 465 et seq
Karpenko *v* Paroian, Courey, Cohen & Houston (1981) 202n
Kelly *v* London Transport Executive (1982) 196
Kitchen *v* Royal Air Force Association (1958) 213–14
Lane and Lane (1976) (Aus) 388
Lawrence *v* Lawrence (1985) 354 et seq
**Len Vidgen Ski & Leisure Ltd *v* Timaru Maritime Supplies (1982) Ltd (In Receivership) (1985) (NZ)** 456 et seq
Lloyds Bank *v* Bundy (1975) 125–6
Lucena *v* Craufurd (1806) 306
Mainz *v* James and Charles Dodd (1978) 208–9

Malyon *v* Lawrence, Messer & Co (1968) 210, 212
Mark Rowlands Ltd *v* Berni Inns (1985) 304 et seq
Maunsell *v* Olins (1975) 296
McLeod and McLeod (1976) (Aus) 389
**Michelin Tyre Co Ltd *v* Macfarlane (Glasgow) Ltd (1917) (Scot)** **462**
Midland Bank Trust Co Ltd *v* Hett, Stubbs & Kemp (1979) 189–90, 200, 217
Morris *v* Morris (1972–73) (Aus) 378
Moses *v* Mcferlan (1760) 47
Mumford Hotels Ltd *v* Wheler (1964) 306, 307
National Westminster Bank plc *v* Morgan (1985) 128
Niblett Ltd *v* Confectioners' Materials Co Ltd (1921) 327–8
Pangas *v* Pangas (1979) (Aus) 384
Pao On *v* Lau Yiu Long (1980) 129–30
Pavey and Pavey (1976) (Aus) 383, 387–88
Peek *v* North Staffordshire Railway (1863) 136
Perrini *v* Perrini (1979) 355 et seq
Pilkington *v* Wood (1953) 207–8
**Pirelli General Cable Works Ltd *v* Oscar Faber & Partners (1983)** **465 et seq**
R *v* Dudley and Stephens (1884) 423 et seq, 434 et seq
**R *v* Kirkwood (1983) (Can)** **146 et seq**
**R *v* Stewart (1983) (Can)** **147 et seq**
**R *v* Turner (1984) (Can)** **147–8**
Radwan *v* Radwan (No. 2) (1973) 353 et seq
Re Agar-Ellis (1883) 168
Re Andrabell (1984) 358
**Re Bond Worth Ltd (1980)** **458**
**Re Conway (a bankrupt) (1936) (NZ)** **460**
Re Furse (1980) 365–6
Re McGrath 169
**Re Smith ex parte Bright (1879)** **459–460**
**Re The J. G. Ward Farmers' Association Ltd ex parte Cooper (1897) (NZ)** **461**
Rees *v* Sinclair (1980) 192, 193
Richards *v* Richards (1984) 161, 172–6
**Robert Simpson Co Ltd *v* Foundation Co of Canada Ltd (1982) (Can)** **465, 466**
Ross *v* Caunters (1980) 197–8
Russell *v* Russell (1976) (Aus) 382
Saif Ali *v* Sydney Mitchell & Co (1977) 192
**Saunders *v* Vautier (1840)** **158**
**Scandinavian Trading Tanker Co AB *v* Flota Petrolera Ecuatoriana (1983)** **453, 454**
Slade *v* Morley (1602) 48 et seq
Smith *v* Hughes (1871) 323
Soblusky *v* Soblusky (1976) (Aus) 379–80
Sparham-Souter *v* Town and Country Developments (Essex) Ltd (1976) 466 et seq
Stevenson *v* Basham (1922) 221
Symington *v* Symington (1875) 168
The Atlantic Baron (1979) 130
The Sibeon and the Sibotre (1976) 129, 130
The Universe Sentinel (1983) 129
Todd and Todd (No. 2) (1976) (Aus) 382 et seq
Tulk *v* Tulk (1907) (Aus) 381–2
Tye and Tye (1976) (Aus) 382
**United Dominions Corporation Limited *v* Brian Pty Ltd (1985) (Aus)** **444 et seq**
Welburn *v* Mayberry (1971) 97–8
Wellesley *v* Duke of Beaufort (1827) 168
Wilkinson *v* Downton (1897) 219 et seq
Whiteoak *v* Whiteoak (1980) (Aus) 383–4
Williams *v* Walker-Thomas Furniture (1965) (US) 132–3
Wimpey Construction UK *v* D.V. Poole (1984) 200
Woodman *v* Photo Trade Processing (1981) 135–6